



December 2024 Newsletter

KMC CONSULTING COMPANY LIMITED

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1 Allocation of CIT on Construction Activities.

OL No. 4864/TCT-KK dated 28 October 2024 issued by the GDT regulates the allocation of CIT for construction activities:

In case, the Company conducts construction activities in a province other than its head office, the CIT of these construction projects should not be allocated as cases of a dependent unit or business location is a production facility under Article 17 of Circular No. 80/2021/TT-BTC.

2 Depreciation cost of fixed assets formed on leased land without construction permit

OL No. 4781/TCT-CS dated 24 October 2024 issued by the GDT regarding the depreciation expenses of fixed assets formed on leased land without a construction permit:

Fixed assets formed on leased land to conduct construction without a license as prescribed (or not subject to construction permit exemption as specified by the 2014 Construction Law) and an ownership certificate of the assets attached to the land issued by a competent authority are as follows:

- Not eligible for deducting input VAT
- Not eligible for depreciating fixed assets into deductible expense when calculating CIT.

3 Land rental expenses during project investment phase

OL No. 4588/CTLAN-TTHT dated 17 October 2024 issued by the Long An Provincial Tax Department guiding on land rental expenses during the investment phase of the project:

Land rental expenses associated with specified term land use rights are enabled to allocate into deductible expenses over the permitted land use term stated in the land use rights certificate when the enterprise has all invoices and documents, complies with legal procedures, and directly relates these costs to commercial sales activities arising during the investment period.

4

Instructions for declaring and paying corporate income tax for real estate transfer activities outside the province

OL No. 4777/CTBNI-TTHT dated 5 November 2024 issued by the Bac Ninh Provincial Tax Department provides instructions for declaring and paying CIT on activities of transferring real estate conducted outside the province:

When a Company engages in real estate transfer activities in a province other than its head office is located:

- **At the Tax Authority where the real estate transfer takes place:** The Company pays CIT based on the assessable revenue of the activity multiplied (x) by 1%.
- **At the Tax Authority where the head office is located:** The Company declares CIT finalization for all real estate transfer activities.

In addition, industrial park management service fees and land rental fees, are accounted as deductible expenses when calculating CIT for production and business activities in previous tax periods, and should not be included in deductible expenses for real estate transfer activities.

5 CIT incentives for projects of manufacturing supporting industrial products

OL No. 8005/CTBGI-TTHT dated 20 November 2024 issued by the Bac Giang Provincial Tax Department guides on CIT incentives for projects of manufacturing supporting industrial products:

The Bac Giang Provincial Tax Department issues guidance on CIT incentives for projects involving new investments and prioritising the production of supporting industrial products:

- **Incentives on new investment projects:** Projects in unfavourable locations are entitled to 2 years exemption and a 50% CIT reduction for the next 4 years and start from the first year of taxable income generated or the fourth year if no taxable income has occurred in the first 3 years.

5 CIT incentives for projects of manufacturing supporting industrial products

- **Incentives on supporting industrial products:** Projects priority produce supporting industrial products with incentives confirmation can transfer incentives from other conditions to incentives on supporting industrial products. The remaining incentive period is counted after deducting the inducement period used under other conditions.
- **Income Segregation:** Enterprises must separately account for income from preferential and non-preferential activities to declare taxes under regulations.

6 PIT on income from wages of foreign workers working in Vietnam

OL No. 27325/CTBDU-TTHT dated 16 October 2024 issued by Binh Duong Provincial Tax Department regarding PIT on income from wages for foreigners working in Vietnam:

The Company bases on the working time in Vietnam of foreign employees stated in the Labour Contract or Assignment Letter to apply the appropriate method to deduct PIT on income from salaries and wages as:

- **According to the partially progressive tariff:** individuals have worked in Vietnam for 183 days or more in the tax year.
- **According to the whole tariff:** individuals who have worked in Vietnam for less than 183 days in the tax year.

7 Guidance on the application of the Double Taxation Agreement between Vietnam and the United Kingdom (“the Agreement”) on income from inheritance of securities

OL No. 4816/TCT-DNNCN dated 25 October 2024 issued by the GDT guidance on the application of the Double Taxation Avoidance Agreement between Vietnam and the United Kingdom ("Agreement") for income from securities inheritance:

Inheritance tax is not subject to the Agreement and international practice on the application of inheritance tax. Therefore, individuals residing in the UK who have income from inheriting securities in Vietnam must declare and pay tax in Vietnam according to regulations.

7 Guidance on the application of the Double Taxation Agreement between Vietnam and the United Kingdom (“the Agreement”) on income from inheritance of securities

Tax declaration process:

- Individuals receiving inheritance in the form of securities must submit tax declarations to the tax authority managing the securities-issuing enterprise.
- Non-resident Individuals in Vietnam who inherit many types of securities that are deposited at a securities company should declare tax at the Tax authority directly managing the securities company.

8 PIT for individuals subject to direct tax finalization

OL No. 4917/TCT-DNNCN dated 30 October 2024 issued by the GDT regarding PIT for individuals are subject to direct finalize PIT:

In case individuals have authorized the Company to finalize PIT on their behalf but later learn they must directly settle taxes with the tax authority, the Company should not adjust the PIT finalization. Rather, the Company should issue a PIT withholding certificate for the individual to prepare tax finalization according to regulations.

9 PIT for individuals not registered for business

OL No. 28333/CTBDU-TTHT dated 31 October 2024 issued by Binh Duong Provincial Tax Department guiding PIT for individuals not registered for business:

In case the Company signs a construction contract with an individual without a business registration, the personal income received is subject to PIT on salaries and wages. The Company should deduct 10% PIT before paying income regardless individual represents a group of individuals or not.

In case the Company has a labour contract in the forms prescribed in Article 14, Labor Code No. 45/2019/QH14 (verbal or written contract, with or without a specified term), the employee is subject to social insurance by the provisions of Article 2, Social Insurance Law No. 58/2014/QH13.

10 FCT on sale of receivables to foreign companies

OL No. 4909/TCT-CS dated 30 October 2024 issued by the GDT stipulates on FCT on sale of receivables to foreign companies:

In case a Company sells receivables of foreign customers to a foreign company (the buyer of receivables) to acquire advance payment for goods sold and meets the following conditions, the abroad buyer of receivables is not subject to FCT:

- The sale of receivables is not a credit loan activity with interest paid;
- The Vietnamese Company transfers all rights and obligations related to the receivables to the buyer without any commitments or responsibilities regardless the buyer can collect the receivables from the customers or not;
- The Company does not incur payments to the foreign company (receivable buyer).

11 Instructions on VAT refund process for exported goods

OL No. 5025/TCT-KK dated 6 November 2024 issued by the GDT guidance on the VAT refund process for exported goods:

Per the dossier eligible for refund first, the Tax authority shall base on the refund dossier and information of the taxpayer in the database to conduct a file check at the tax authority's headquarters and determine the subjects and cases eligible for tax refund.

The Tax Authority will notify the taxpayer in writing to explain and supplement documents when the details declared on the tax refund dossier are different from the management data of the tax authority. The time for explaining and supplementing information is not included in the time limit for processing the tax refund dossier.

The Tax Authority will examine and resemble the bank statements of the taxpayer when conducting inspections and assessments after refunding tax for the prescribed prior tax refund dossiers to determine the tax amount eligible for refund and process the tax refund request dossier as specified.

12 Conditions for VAT refund of export production projects

OL No. 4566/TCT-KK dated 14 October 2024 issued by the GDT regulates VAT refund conditions for export production projects:

The Company should not submit a VAT refund request for an investment project that has completed the investment phase and is in operation. Instead, the Company has opted to transfer the VAT from the project that has not been refunded into the declaration form No. 01/GTGT for production and business activities.

12 Conditions for VAT refund of export production projects

The eligibility for a tax refund is determined under the following conditions:

- The input VAT of exported goods, including the input VAT from investment, construction and fixed asset formation activities (meeting the legal regulations on investment and serving the exported goods production and business activities), shall be considered for tax refund if the input VAT **from 300 million VND or more** after offsetting with the VAT payable of domestically consumed goods and services.
- The VAT refunded of exported goods and services must **not exceed 10% of the revenue from exported goods and services.**

13 VAT on services provided by individuals operated real estate brokerage business

OL No. 4784/TCT-CS dated 24 October 2024 issued by the GDT stipulating VAT on services provided by individuals operated real estate brokerage business:

Individuals, who provide real estate brokerage services with a granted real estate brokerage practice certificate but are not employees of businesses in real estate transactions platform services or real estate brokerage services, should register and be granted a tax code by the tax authority before operating production and business activities or incurring obligations to the state budget. The tax rates are as follows:

- VAT is 5%.
- PIT is 2% based on taxable revenue

Enterprises providing e-commerce real estate exchange platform services should declare and pay taxes on behalf of individuals under authorization by the Civil Law provisions monthly or quarterly following the regulations of Point b, Clause 2, Article 8, Circular No. 40/2021/TT-BTC.

The VAT Law 2024 No. 48/2024/QH15 issued on 26 November 2024 will take effect on 1 July 2025

On 26 November 2024, at the 8th Session Program, with the majority of National Assembly deputies voting in favour, the National Assembly officially passed the Law on VAT 2024.

The summary of the new points in the VAT Law 2024 is specifically as follows:

1. Adjustment of subjects not under VAT

The Article 5 adjusts the regulations on subjects not under VAT in Article 5 of the amendment and supplemented VAT Law 2008 which was amended by VAT Law 2013 and Law on VAT, Law on SCT and Law on Tax Management 2016 as follows:

- Omit some subjects not under VAT according to current regulations including:
 - + Fertilizers; specialized machinery and equipment for agricultural production; offshore fishing vessels;
 - + Securities depository; market organization services of stock exchanges units or securities trading centres; other securities business activities...

The VAT Law 2024 No. 48/2024/QH15 issued on 26 November 2024 will take effect on 1 July 2025

- Export products composed of resources and minerals that have been mined and subsequently processed into other goods exempt from VAT should adhere to the prescribed list established by the government.

Previously, regulating export products processed from resources and minerals were not subject to VAT when the combined value of resources and minerals and associated energy costs constituted 51% or more of the total product cost.

- Imported goods supporting and sponsoring natural disaster prevention, epidemics, and wars according to Government regulations are not subject to VAT.

The VAT Law 2024 No. 48/2024/QH15 issued on 26 November 2024 will take effect on 1 July 2025

2. Amending regulation on the taxable price for imported goods

Article 7 of Law on VAT 2024 stipulates the taxable price for imported goods is the import taxable price by the provisions of the Law on Export and Import Tax adds import taxes, additional import taxes as specified by the Law (if any), as well as SCT (if any) and EPT (if any).

3. Supplementing taxable prices for promotion goods and services

Article 7 of Law on VAT 2024 complements the regulation that taxable prices for promotion goods and services following the provisions of the Law on Commerce are defined as nil (0).

The VAT Law 2024 No. 48/2024/QH15 issued on 26 November 2024 will take effect on 1 July 2025

4. Adjusting tax rates of some goods and services

Article 9 of Law on VAT 2024 alters the tax rates on various goods and services as follows:

- Supplement more subjects to a 0% tax rate:
- International transportation
- Goods sold in quarantine areas to individuals (foreigners or Vietnamese) who have completed exit procedures; goods sold at duty-free shops;
- Export services include: Vehicle rental services consumed outside Vietnam territory; airline and maritime services provided directly or through agents for international transport.

The VAT Law 2024 No. 48/2024/QH15 issued on 26 November 2024 will take effect on 1 July 2025

- Non-taxable products converted to 5% tax rate:
 - Fertilizer;
 - Fishing vessels in the sea.
- Products subject to 5% tax rate change to 10%
 - Unprocessed forest products;
 - Sugar; byproducts in sugar production, including molasses, bagasse, and megass;
 - Specialized equipment and tools for teaching, research, and scientific experiments;
 - Cultural activities, exhibitions, physical education and sports; art performances; film production; film import, distribution and screening.

The VAT Law 2024 No. 48/2024/QH15 issued on 26 November 2024 will take effect on 1 July 2025

5. Modifying the conditions of input VAT deduction

- Purchasing goods and services under 20 million VND should have non-cash payment documents: Previously, according to the provisions of Clause 2, Article 12, goods and services purchased at each time with a value of less than twenty million VND should not need non-cash payment documents to deduct VAT. However, according to point b, clause 2, Article 14, all purchased goods and services should have non-cash payment documents, except for special cases as the Government prescribed.
- Adding documents for input VAT deduction: Under point c, clause 2, Article 14, exported goods and services are enabled to deduct input VAT when having packing lists, bills of lading, and cargo insurance documents (if any); except for special cases as prescribed by the Government. This content was not previously regulated.

The VAT Law 2024 No. 48/2024/QH15 issued on 26 November 2024 will take effect on 1 July 2025

6. Add more tax refund cases

Article 15 of the Law on VAT 2024 supplements the eligible cases of tax refund as follows:
Business establishments, that exclusively produce goods and provide services subject to a 5% VAT rate and have input VAT of 300 million VND or more has not been fully deducted after 12 months or 4 quarters, are eligible for a VAT refund.

15 Officially reduce 2% VAT for the first 6 months of 2025

Resolution No. 174/2024/QH15, the National Assembly agreed to reduce 2% VAT for the first 6 months of 2025 (applied from 01 January 2025 to 30 June 2025):

Accordingly, the National Assembly agreed to continue reducing the VAT rate by 2% for the groups of goods and services specified in Point a, Section 1.1, Clause 1, Article 3 of the Resolution No. 174/2024/QH15 of National Assembly guidance on fiscal and monetary policies to support the Socio-Economic Recovery and Development Program for the period from 1 January 2025 to 30 June 2025.

Amending and supplementing the Law on Health Insurance 2024 No. 51/2024/QH15

On 27 November 2024, the National Assembly passed the Law to amend and supplement several articles of the Law on Health Insurance No. 51/2024/QH15. The few notable contents are specifically as:

- 1. Amending and updating the participating subjects, adding subjects to participate in compulsory health insurance (HI) such as:**
 - Countryside health workers, midwives;
 - People participating in the force to protect security and order at the grassroots level;
 - People aged 75 and over receiving monthly pension benefits, people aged 70 to under 75 belong to near-poor households and receiving monthly pension benefits;...

2. Adjusting the allocation and usage rate of the health insurance fund specifically as follows:

- Increasing the allocation rate from HI collections for medical examination and treatment activities to 92%;
- Decreasing the expenditure rate for the reserve fund and the organization and operation of health insurance activities to 8% and ensuring a minimum of 4% is allocated specifically for the reserve fund.

Amending and supplementing the Law on Health Insurance 2024 No. 51/2024/QH15

3. Supplementing specific regulations on late payment, evasion of health insurance and the measures for these cases:

- Late payment of HI is an act by the employer in one of the following cases:
 - Not or insufficiently paying the compulsory HI premiums since the latest date of HI remittance as prescribed in Clause 8, Article 15 of this Law, except for the case regulated in Point c, Clause 1, Article 48b of this Law;
 - Not preparing or creating the incompletely list of people subjected to participate in HI within 60 days from the deadline as prescribed in Point b, Clause 1, Article 17 of this Law;
 - Belonging to a case is not considered as evading HI remittance under the provisions in Clause 2, Article 48b of this Law.

Amending and supplementing the Law on Health Insurance 2024 No. 51/2024/QH15

- Measures for late payment of HI include:
- The settlement of the outstanding amount is mandatory; along with fines of 0.03%/day calculated on the overdue amount and number of days for delay in paying HI;
- Sanction for administrative violations according to the provisions of Law;
- Do not assess any emulation titles or forms of awards.

On the report on occupational accidents and occupational safety and health in 2024

On 27 November 2024, the DOLISA of Ho Chi Minh City issued OL No.30130/SLDTBXH-VLATLĐ reporting on the situation of occupational accidents, safety and hygiene in 2024:

Accordingly, to implement regulations of statistics and reporting on occupational accidents and technical incidents causing serious occupational safety and hygiene; reporting on occupational safety and hygiene for enterprises, units, organizations and individuals employing labour (hereinafter as employing establishments) headquartered in Ho Chi Minh City, the DOLISA guides the implementation of the report 2024 (from 1 January 2024 to 31 December 2024) as follows:

On the report on occupational accidents and occupational safety and health in 2024

1. For reporting on occupational accidents in areas with labor relations and reporting on occupational safety and hygiene:

- The content of the report on the occupational accidents situation is specified in Clause 1, Article 36 of the Law on Labor Safety and Hygiene; Clause 1, Article 24 of Decree No.39/2016/ND-CP dated 15 May 2016 by the Government detailing the implementation of several articles of the Law on Labor Safety and Hygiene and Appendix XII issued with the Decree;
- The content of the report on occupational safety and hygiene is specified in Point A, Clause 1, Article 81 of the Law on Occupational Safety and Hygiene; Clause 2, Article 10 of Circular No. 07/2016/TT-BLDTBXH dated 15 May 2016 by the MOLISA and Appendix II issued with the Circular.
- Form of submission reports: The employer logs into the "**Software for managing information to create a database of occupational accidents in Ho Chi Minh City**" (hereinafter as the software), address: atld-sldtbxh.tphcm.gov.vn to report on the occupational accidents and occupational safety and hygiene work situations in 2024.
- Time for submission reports: **from 16 December 2024 till prior 10 January 2025.**

On the report on occupational accidents and occupational safety and health in 2024

2. For reports on occupational accidents and technical incidents causing serious violations of occupational safety and hygiene involving employees working without labour contracts (in areas without labour relations):

- Contents of the report on the situation of occupational accidents and technical incidents causing serious occupational safety and hygiene violations related to employees working without labour contracts occurring in the areas specified in Clause 2, Article 36 of the Law on Occupational Safety and Hygiene; Clauses 2 and 3, Article 24 of Decree No. 39/2016/ND-CP dated 15 May 2016 by the Government detailing the implementation of several articles in the Law on Occupational Safety and Hygiene and Appendix XVI issued with the Decree.

On the report on occupational accidents and occupational safety and health in 2024

- Form and time of submission reports:
- The People's Committees of wards, communes and towns access the software at the following address: atld-sldtbxh.tphcm.gov.vn to report on the situation of occupational accidents in 2024 involving employees engaged in work without labour contracts occurring in the respective management areas prior 5 January 2025.
- The People's Committees of districts, towns, and Thu Duc City log into the software to verify information, review data, access the necessary form formats, receive reports on the software; synthesize reports and send the form to the DOLISA before 10 January 2025.

Abbreviations

VAT	Value Added Tax	MOF	Ministry of Finance
PIT	Personal Income Tax	GDT	General Department of Taxation
CIT	Corporate Income Tax	MOIT	Ministry of Industry and Trade
FCT	Foreign Contractor Tax	MOLISA	Ministry of Labor, War Invalids and Social Affairs
SCT	Special Consumption Tax	DPI	Department of Planning and Investment
IET	Import and Export Tax	SBV	The State Bank of Vietnam
OTH	Other	EPE	Export processing enterprises
OL	Official Letter	EPZ	Export Processing Zone
ACC	Accounting	IZ	Industrial Zone
LAB	Labor		



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KMC's Newsletter aims to update and summarize the general provisions related to Taxation, Accounting, Investment and Labor in Vietnam. You should seek professional advice before making a decision.





Connect with us.

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